

ORIGINAL
IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

135

7-11-01
Se

JOHN RICHARD JAE,

Plaintiff

v.

**KENNETH D. KYLER, individually, and :
in his official capacity, et al., :**

Defendants

FILED
HARRISBURG

JUL 10 2001

MARY E. D'ANDREA, CLERK
Per *[Signature]*

No. 1:CV-00-0315 DEPUTY CLERK

(Judge Rambo)

(Magistrate Judge Smyser)

**THIRD MOTION FOR ENLARGEMENT OF TIME TO RESPOND TO
PLAINTIFF'S MOTION REQUIRING SCI-GREENE OFFICIALS TO
RETURN LEGAL MATERIALS**

Pursuant to Fed.R.Civ.P. 6(b) defendants move the Court to enlarge the time by one week within which they must file a brief opposing plaintiff's motion requiring SCI-Greene officials to return legal materials. In support of this motion defendants state as follows:

1. This is a civil rights action brought by a prisoner currently incarcerated at SCI-Greene.
2. Plaintiff is John Richard Jae.
3. Defendants are various officials and employees of SCI-Camp Hill.
4. Plaintiff alleges violations of the First, Eighth and Fourteenth

Amendments, as well as, state law claims in connection with his confinement in the Restricted Housing Unit. Specifically he asserts that he was denied legal materials and religious literature, that he was denied showers and exercise and that he had been subjected to poor ventilation and excessive heat in his cell.

5. Defendants filed and briefed a motion for summary judgment which has been pending since December.

6. Plaintiff has requested and received several extensions of time to respond to the motion.

7. On June 8, 2001, plaintiff filed a motion seeking an order requiring officials at SCI-Greene to return legal materials to him, as well as, supply him with paper, carbon paper and envelopes.

8. Defendants previously sought and received a one-week enlargement of time to respond to the motion. Under that enlargement defendants' response was due July 2, 2001. This request was made due to numerous other obligations which prevented counsel for defendants from completing the brief in opposition to Jae's motion.

9. Defendants also previously sought and obtained a second motion for enlargement of time until July 9, 2001. That request was made because counsel was recovering from knee surgery.


10. Defendants are now seeking an additional week, or until July 16, 2001, to respond to the motion because counsel has recently discovered that one of the witnesses to matters raised in the motion, Mark Capozza, is on vacation this week. Counsel was unable to contact this witness in the previous week because of his recuperation from the knee surgery. Counsel intends to submit a declaration from Mr. Capozza in response to plaintiff's allegations.

11. The requested enlargement will not significantly delay the disposition of this matter nor will it prejudice the plaintiff.

WHEREFORE, defendants respectfully request the Court to enlarge the time within which they must respond to plaintiff's motion to require officials at SCI-Greene to return his legal materials.

Respectfully submitted,

D. MICHAEL FISHER
Attorney General

BY: 
MICHAEL L. HARVEY
Senior Deputy Attorney General

SUSAN J. FORNEY
Chief Deputy Attorney General
Chief, Litigation Section

15th Floor, Strawberry Square
Harrisburg, PA 17120
PHONE: (717) 783-6896
FAX: (717) 772-4526
DATE: July 10, 2001

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No. 1:CV-00-0315

(Judge Rambo)

(Magistrate Judge Smyser)

CERTIFICATE OF SERVICE

I, Michael L. Harvey, Senior Deputy Attorney General, hereby certify
that on this date I caused to be served a copy of the foregoing document by
depositing a copy of the same in the United States mail, postage prepaid, in
Harrisburg, PA., addressed to the following:

John Richard Jae, BQ-3219
SCI-Greene
175 Progress Drive
Waynesburg, PA 15370-2902



**MICHAEL L. HARVEY
SENIOR DEPUTY ATTORNEY GENERAL**

DATE: July 10, 2001